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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,514	11/24/2003	Kenneth Gordon Walker	W245 0004	1974
720	7590	08/15/2006	EXAMINER	
OYEN, WIGGS, GREEN & MUTALA LLP			BOGART, MICHAEL G	
480 - THE STATION			ART UNIT	PAPER NUMBER
601 WEST CORDOVA STREET				
VANCOUVER, BC V6B 1G1			3761	
CANADA				

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/718,514	WALKER, KENNETH GORDON	
	Examiner Michael G. Bogart	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 June 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-4 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-4 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 24 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Terminal Disclaimer***

The terminal disclaimer filed on 07 June 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 5,741,237 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

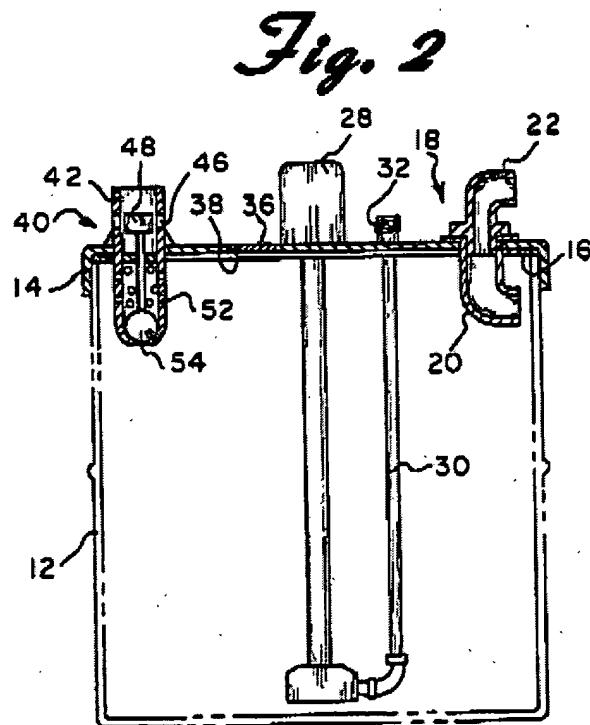
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 3 is rejected under 35 U.S.C. § 102(b) as being anticipated by Hallsworth *et al.* (US 4,246,676; hereinafter “Hallsworth”).

Hallsworth teaches a check valve (48) for a canister (12) adapted to receive fluids, said canister (12) having a vacuum port (40) for application of vacuum to said canister (12) for inducing a flow of fluids into said canister (12), said check valve (48) being operably coupled to said vacuum port (40) for stopping said application of vacuum to said canister (12) when said fluids in said canister (12) reach a pre-determined level upper, said check valve (48) comprising:

(a) a floatball (54) operatively coupled to a needle valve (56, 48); said floatball being positioned below said needle valve (56, 48) to lift said needle valve upwardly to effectively stop the vacuum applied to the vacuum port when said fluids reach said upper level; and

(b) a needle valve (56, 48);  
(c) a floatball cage (50) for housing said floatball (54), said floatball cage comprising a needle valve guide (62) for slidably retaining said needle valve (56, 48)(col. 3, lines 22-64)(see figure 2, infra).



Regarding the functional limitations of the claims, apparatus claims must be structurally distinguishable from the prior art. MPEP § 2114.

***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

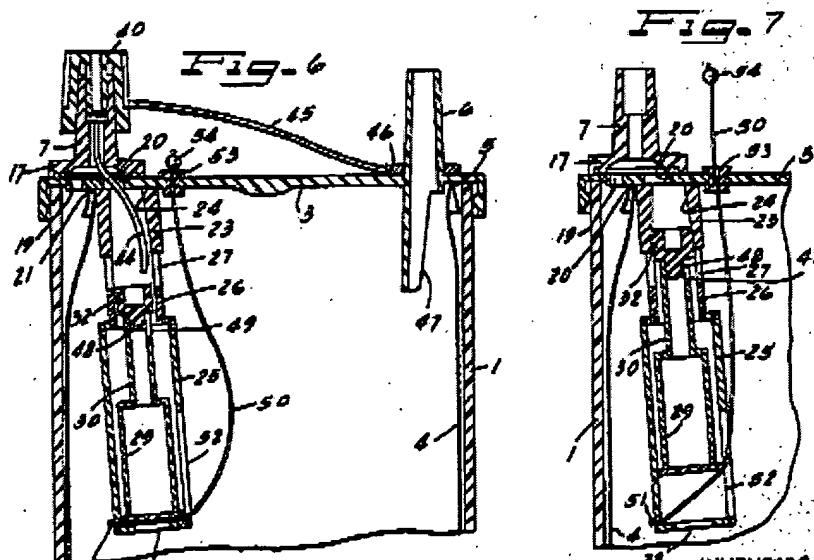
Art Unit: 3761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hallsworth in view of Reynolds *et al.* (US 3,685,517; hereinafter “Reynolds”).

Hallsworth does not teach a valve that closes a vacuum port as the float rises. Instead it breaks vacuum by opening a vent (46).

Reynolds teaches a body fluid collection canister (1) comprising a float (29) in a cage (25), the float (29) being disposed below a needle valve (30, 32) such that when liquid collected in the canister rise to a certain point, the float pushes the needle valve upward until the valve element (32) closes the vacuum port (20) between the vacuum source and the interior of liner (4)(see figures 6 and 7, infra). This configuration provides for aseptic use and reuse of the canister when bio-hazardous materials are collected.



At the time of the invention, it would have been obvious to one of ordinary skill in the art to add the liner and upper valve structure of Reynolds to the liquid collecting vacuum pf Hallsworth in order to provide for a reusable device for collection potentially hazardous liquids.

Regarding claim 4, see Reynolds, col. 2, line 55-col. 3, line 5.

***Response to Arguments***

Applicant's arguments with respect to claims 2-4 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Bogart  
10 August 2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

